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January 23, 1959

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Flat Cancellation Study By NAIA Reveals Agency Operation Facts

NEW YORK—National Assn. of Insurance Agents has completed its study of flat cancellations.

Significant findings include:

—That only 2.6% of all policies and money endorsements processed during the test period constituted "net" cancellations flat.

—While two-thirds of agencies write their own fire policies, only 20% of them write their casualty policies.

—Very few renewals are personally delivered by agents country over. Most of them are mailed.

—Most agents, 57%, do account selling at all times. More than 50% of flat cancellations in the review period occurred in agencies which insured only "part of a customer's account." Only 15% of the cancellations occurred in agencies that controlled the entire account of their insured.

—Flat cancellations turned up by the survey were distributed 38% au-

tomobile, 37.4% fire, 12.6% other casualty, 4.7% marine, 2.2% workmen's compensation, 2% homeowners, 1.6% A&S, 1.1% bonds, and .4% commercial package policies.

—Almost 50% of the flat cancellations involved concerned policies with premiums of less than \$50. Almost 75% of the flat cancellations represented policies with less than \$100 in premiums.

—Causes of flat cancellations given were: 28%, customer secured insurance elsewhere; 27.9%, cover was written by the agent under another contract; 17.7%, the insurance was no longer needed; 6.4%, insured didn't pay premium; 5.9%, policy was spoiled; 4.6%, customer moved; and 5.9%, miscellaneous. The cancellations caused by spoilage and by the writing of the cover under another contract were deducted to give the "net" cancellations.

The NAIA study was conducted

with questionnaires asking the number of cancellations and related questions going to the membership of 33,000. NAIA received 6,200 answers, a 20% return, involving almost 1 million possible flat cancellations. The study covered the period of August, 1958. To determine the causes of such cancellations, a thorough analysis was made of 1,000 of the 6,200 returns. This analysis was made by IBM.

Discussions With Industry

The study is being discussed in New York this week by agency, industry and organization leaders. Attending the conference for the agents are President Archie M. Slawsby of Nashua, N. H., Porter Ellis of Dallas, Valmore Forcier of Danielson, Conn., Frank R. Bell Jr. of Charleston, W. Va., Josiah Hatch of Savannah, Ga., Floyd Rice of Warren, Pa., chairman of the com-

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State Regulation Wins Another Big Court Victory

Travelers Health Decision Upholds State Authority Over FTC Intervention

State regulation won another court victory in the decision Jan. 13 of the U. S. court of appeals at St. Louis which by a 2 to 1 vote said the Federal Trade Commission had no legal authority to regulate the advertising practices of Travelers Health of Omaha. The court said in effect that the FTC was precluded from bringing the charge against Travelers Health because the state already had the authority to do so.

The U. S. Supreme Court in the American Hospital & Life and National Casualty cases has taken substantially the same stand on the powers of the FTC, but Travelers Health treats the issue for mail order insurers.

Another aspect of the Travelers Health decision is the comment by the court that the addition to the Nebraska unfair trade practices act of an amendment of an extraterritorial nature, empowering the director to prefer charges against a domestic insurer if he has reason to believe that it has in states other than Nebraska engaged in unfair trade practices, was unnecessary because "we think the director of insurance of Nebraska at all times here involved had the power to regulate the practices of the petitioner in the solicitation of insurance in Nebraska and other states."

On this point, the court went on to say: "It must be kept in mind that the business of the petitioner (Travelers

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A two-day governor's conference on workmen's compensation, the first in New Jersey's history, has been scheduled for Feb. 25-26 at Hotel Robert Treat, Newark. Experts have been invited to speak and there will be seminars on various aspects of the compensation laws.

1958 Fire Loss Tops \$1 Billion Second Time For New High

The year 1958 was the second in history during which fire losses nationwide topped \$1 billion. Fire damaged or destroyed an estimated \$1,056,266,000 worth of property in the U. S. in 1958, National Board reports. This is 3.2% more than in 1957 when losses totaled \$1,023,190,000.

The board estimated losses for December, 1958, at \$100,523,000, an increase of 40.5% over losses of \$71,539,000 reported for November, and an increase of 9.8% over losses of \$91,519,000 reported for December, 1957.

These estimated losses include an allowance for uninsured and unreported losses. Monthly and yearly totals for the past three years are:

	1958	1957	1956
Jan.	99,918,000	115,272,000	96,972,000
Feb.	103,853,000	95,569,000	84,041,000
March	102,722,000	104,565,000	89,315,000
April	99,061,000	85,994,000	84,624,000
May	85,533,000	79,045,000	87,681,000
June	90,048,000	69,710,000	74,770,000
July	80,782,000	77,814,000	68,752,000
August	75,491,000	78,364,000	74,930,000
Sept.	73,303,000	72,264,000	70,118,000
Oct.	73,393,000	77,753,000	81,121,000
Nov.	71,539,000	75,321,000	80,481,000
Dec.	100,523,000	91,519,000	96,485,000
Total	1,056,266,000	1,023,190,000	969,290,000

Naghten Names Anderson

John Naghten & Co. agency of Chicago has appointed Thomas C. Anderson as Lloyds consultant and casualty manager, effective Feb. 1. Mr. Anderson was formerly vice-president of Griffiths, Tate, Ltd.

F. F. Rondau, president of Mutual Service group of St. Paul, addressed Minnesota chapter of CPCU on company mergers and other trends in the business.

Deviation On EC Rate, Form Approved In Mass.

The Massachusetts supreme court has ruled that an insurer may deviate from bureau filings with respect to both rates and coverage. The ruling, the first of its kind in the state, was made in a case in which the court upheld the appeal of Liberty Mutual on the rejection by Commissioner Humphreys of its \$100 wind deductible filing for extended coverage. The court ordered the commissioner to consider the company's proposal as a deviation which may be approved if otherwise acceptable to the insurance department as not excessive, inadequate or unfairly discriminatory.

The filing provided for a change in form with a deductible of \$100 instead of \$50. It also included a reduction in rate with a 25% discount on the 30 cents per hundred rate for extended coverage on Massachusetts dwellings.

If Liberty Mutual's filing is allowed with the larger deductible and the rate reduction in addition to the policyholder dividend, bureau companies are expected to adopt the larger deductible to compete.

N. Y. Governor Is High On Insurance Stocks

Gov. Rockefeller of New York has complied with the state code of ethics for government employees, and has listed 10 businesses under New York jurisdiction in which he has invested \$10,000 or more.

Seven companies on the list are insurers: Fidelity-Phenix, Fireman's Fund, Hartford Fire, Merchants Fire of New York, Peerless, St. Paul F.&M., and Travelers. The governor's other listed holdings are in banks and a utility company.

Northwestern Mutual has opened a claim office at San Antonio, and has appointed Frank Robins manager.

Settle Auto Rate Issue In Tenn., New Commissioner

Commissioner Gilbert of Tennessee has approved increases amounting to about half what National Bureau asked on private passenger liability, and a 2.27% increase in PHD rates against the 4.03% asked by National Automobile Underwriters Assn. The bureau had asked for an increase of 23.7% and got 12.2%. This breaks down into 14.08% for BI and 9.04% for PDL.

As Mr. Gilbert handed down his decision after several days of hearings on the automobile rates, which previously had resulted in the resignation of Arch E. Northington as commissioner, Gov.-elect Ellington appointed a new commissioner, John R. Long, attorney and business man of Springfield, to succeed Gilbert.

In his decision on the auto rates, Mr. Gilbert eliminated the allowance

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New officers of New Orleans Insurance Exchange, left to right, are Charles L. Rittenberg, treasurer; Herman Katten, president; E. Patrick McCloskey, secretary, and Paul W. McIlhenney, vice-president.

Difference Between Value, Loss Payment Widens, Adjuster Says

In his address before a meeting of Western Loss Assn., George M. Blum, head of Blum Claims Service of Chicago, observed that "value is one thing for premium purposes and loss is another thing for disbursement purposes, and the statistical relationship between the two separates farther each year despite the intent of the coinsurance clause." A double standard is being used, Mr. Blum said, with companies establishing a reduction in rates for older buildings and charging full rates for newer buildings.

Part 1 of two parts of Mr. Blum's address is given in substance below. In recent weeks the talk has been reprinted by Western Loss Assn. and has been much in demand among company men.

The loss dollar has skidded statistically far away from the premium dollar as a result of poor working practices and production pressure on the loss end of the business. If those in loss work would provide leadership in the way of uniform policy interpretation and more professional adjusting practices, they would have greater respect from the public, agents and brokers, lawyers and judges, and when necessity calls for a negative stand the loss people would have a more ready acceptance. For the last 20 years, leadership from the loss ranks has not produced esteem from the rest of the insurance business.

Adjusters and loss departments have been guilty of avoiding direct answers to questions, using clichés that sound good but don't work in the field. They have avoided issues and let them

dangle until the very last avoidance was used up, hoping that a lawyer could reach in the bag and pull out a fighting rabbit, but how can that hope be justified when it is well-known that the production side of the business has made quick settlements the order of the day? When an adjuster is working with a quick settlement complex he is not likely to do first things first in a way that will later provide any real amount of defense material for a lawyer. If the truth were admitted, lawyers usually find only a mouse in the defense bag.

Recognize Management Problems

Adjusters in the field are not un-mindful of the problems faced by loss management, realizing that although the public thinks of the insurance companies in the singular there is almost too vigorous competition between individual fire companies and that competition on the production side favors the "soft sell" and only the loss departments stand between that desire and the assets of the companies. The loss men are faced constantly with demands for action and for opinions, and while the adjusters have sympathy for the loss managers, it is at this point that a uniform attitude needs to be set up so

(CONTINUED ON PAGE 13)

North America Appeals In Wash. Fire Filing Case

North America has filed an appeal from the superior court decision in Washington which denied its independent filing of fire rates. The company is going to the state supreme court in an attempt to file independent rates while remaining a subscriber to Washington Surveying & Rating Bureau. The issue dates from last April when the commissioner refused the filing. It was rejected following a hearing in May and North America took that decision to the superior court which in October upheld the department.

Quits Driving After 50 Years While Still Ahead

Mrs. James McDermott of Seneca Falls, N. Y., has been commended by the state commissioner of motor vehicles, Joseph P. Kelly, for ceasing to drive. But not because she was a menace on the highways. Mrs. McDermott has not had an accident in more than 50 years of driving. When she reached the age of 82, she decided it was time to quit because her presence behind the wheel might lead to injuries to others. Mr. Kelly congratulated her on her wisdom. Several other octogenarians have voluntarily relinquished their licenses in the state in recent months.

Estimate California Forest Fire Loss At \$2.5 Million

A series of forest and brush fires, all of suspected incendiary origin, in the Santa Monica mountain area of California caused a loss of \$2,552,924, General Adjustment Bureau has estimated.

The first fire, which broke out near Malibu Lake, caused 25 total dwelling losses averaging \$13,500 for a total of \$337,500. There were 300 partial losses averaging \$1,000 for a total of \$300,000.

A second fire in the Topanga canyon area produced a loss on 374 dwellings and contents, three mercantiles, 200 automobiles and 10 trailers for a total estimated insured loss of \$1,251,424. Another fire the same day in the Beverly Glen sector produced dwelling losses and an estimated insured loss of \$564,000.

Offer To Buy Anchor Casualty

ST. PAUL—A group of businessmen in Minneapolis and St. Paul have made an offer through a stock broker to purchase the controlling interest in Anchor Casualty. A letter offering \$40 a share for 51% of the stock has been sent to Anchor Casualty's 500 stockholders by Craig-Hallum, acting as agent for the prospective buyers. The offer expires Feb. 12 but may be renewed until April 10.

Anchor Casualty has 110,000 shares of common and 20,000 shares of convertible preferred. The common stock has been bid recently at 27 and 28 with no offers to sell.

Pacific Indemnity President Comments On Cal. Agents' Suit

C. R. Herda, president of Pacific Indemnity, one of the companies cited by the California agents in their anti-trust suit over the question of reduced commissions, has issued a statement describing the action as "a step that could well bring discredit to the American agency system, and, possibly, be the beginning of its end."

Mr. Herda says Pacific Indemnity adopted auto rates in January, 1958, "that simply would not permit it to continue old commissions and stay in business." The company acted in concert with no one, he adds.

"This is not the time for recriminations," he states. "Whatever the shortcomings of agent and company alike in meeting the competitive challenge in the past, today is the time for repair and for a return to a place of prominence in the automobile insurance market."

Reelect St. Louis Officers

John Brodhead Jr. was reelected president of Insurance Board of St. Louis at the annual meeting this week. Others reelected were: Chairman, William R. Durham; vice-president, Charles W. DeWitt; secretary, Harry Bishop, and treasurer, James O. Holton Jr.

The new officers will be inducted by Superintendent Leggett at a banquet Jan. 26 at which the speaker will be Robert Z. Alexander, president of American of Newark.

Interview Attorney Of Cal. Agents Suing Insurers Over Commissions

Underwriters Report, the weekly insurance paper at San Francisco, has published an interview conducted by its editor with Joseph L. Alioto, counsel for the California agents who are bringing an anti-trust suit against the casualty companies for reducing automobile commissions.

Editor Roy Pasini conducted the interview for Underwriters Report. Highlights, as published by Underwriters Report, follow:

Q. What, specifically, are the plaintiffs' objectives in bringing the action?

A. The plaintiffs made exhaustive efforts to settle this matter amicably. When these efforts failed, they either had to concede that insurance companies had the right, acting among themselves, to fix agents' commissions without prior consultation between the company and the agent, or else file suit to secure a judicial determination that this conduct violated the anti-trust laws. Once the companies established their right to fix commissions on a unilateral basis after consultation among themselves rather than with their agents, the commissions could be whittled down progressively or eliminated entirely. In these circumstances, agents believed that this lawsuit was necessary for their survival. It is unfortunate that the efforts made by the agents to settle the matter outside of court were unsuccessful.

Q. On what basis were the defendants in the anti-trust suit selected? Is it possible that more companies will be cited?

A. Plaintiffs were and still are free to name as defendants all of the

companies which joined in the concert of action to reduce commissions. However, had all of them been named, the litigation would be unwieldy and could possibly be stalled unduly. Accordingly, we decided to name as defendants a cross-section of the companies which were representative of all. It is not only possible but probable that more companies will be cited before the litigation is terminated. This is not one of what have been called "protracted" anti-trust cases unless the defendants choose to make it so. The number of defendants is within bounds; the issue is relatively simple; and we have no desire to create a situation which would delay the determination of that issue.

Q. If similar commission reductions should come in other lines, such as fire insurance, what effect would they have on the case against the auto companies?

A. We do not believe that similar commission reductions in other lines would have any legal effect on this case. Each anti-trust case must stand upon its own facts. We believe that the facts in the present case show a cooperative action on the part of the companies to reduce the commissions.

Q. With the complaint filed on Dec. 30, what is the next expected development?

A. Twenty days after the service of summons upon defendants, the plaintiffs will be permitted to start their discovery proceedings, and they intend to do so. Discovery will take the form of securing the sworn testimony in depositions of the defendants' officials, both in California and in the

(CONTINUED ON PAGE 22)

Alaska Agents Get Mandatory Deductible Instead Of Buy Back

Alaska agents, dissatisfied with the "buy back" method of getting rid of a \$50 wind and hail deductible in extended coverage and the broad form, have persuaded Pacific Fire Rating Bureau to make the deductible mandatory. This development is reported in a bulletin accompanying appropriate changes in the PFRB rule book.

The bulletin, over the signature of A. W. Gilbert, general manager, states that the action is a consequence of a hearing Dec. 1 in Juneau before Ross Duncan, Alaska commissioner. "After a careful review of the various aspects of the problems involved," Mr. Gilbert writes, "the Alaska Assn. of Insurance Agents recommended the PFRB give consideration to placing all of the \$50 loss deductible provisions of EC and the broad form on a mandatory basis; that is, to eliminate the 'buy back' provisions for these deductibles."

The same bulletin announced the postponement of the withdrawal of additional EC. The endorsement had been withdrawn as of Oct. 1, but the action was put off until March 1 to "facilitate the introduction of the broad form in lieu of AEC."

California-Arizona chapter of Society of Fire Protection Engineers heard a discussion on "Automation in Industry" at its January dinner meeting in Los Angeles. A representative of Hughes Aircraft was the speaker.

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Horn Of Ala. Joins Life Insurer There

James H. Horn, Alabama commissioner since 1956, has been elected vice-president of Southern United Life of Montgomery. He had worked for the state for more than 12 years, and prior to becoming commissioner was manager of the state insurance fund. He was succeeded by Ted Rinehart, former assistant attorney general.

With Southern United, which was organized two years ago, Mr. Horn will be concerned with administrative and technical services. The company is embarking on an expansion program which will include life reinsurance.

Ill. R. B. Jones To Handle Lloyds Business Of Jones & Whitlock Agency

The Lloyds business of Jones & Whitlock agency of Chicago henceforth will be conducted by Illinois R. B. Jones, Inc.

C. Reid Cloon, president of Illinois R. B. Jones, noted that for many years both offices have been using the same Lloyds sources.

Pictured from the left are Jay Glea-



son, executive vice-president of Illinois R. B. Jones; C. Reid Cloon, president, and William C. Eaton, vice-president and general manager of Jones & Whitlock.

Business Warned Of Bill Increasing Detail, Taxes

U. S. Chamber of Commerce has advised business men in its Washington report that more paperwork and added taxes can be avoided by preventing a costly amendment already proposed for the new welfare and pension plans disclosure act.

The act, effective Jan. 1, requires a heavy increase in paperwork for business and for the federal government. Welfare plans covering more than 25 workers must turn in detailed reports each year on their operations, and an extra report this year describing the plans.

The labor department, which now has authority only to receive and store reports, is requesting an amendment to give it power to subpoena added records and to demand more time and more reports from employers and fund officials. This would require a larger department staff.

The Chamber of Commerce did not support the act, but did not oppose it because it was a step in the direction of eliminating theft or misuse of welfare funds which are now estimated in excess of \$42 billion. However, the chamber now maintains that the law should operate long enough for business and government to determine its actual expense before amendments are added to increase costs and workload.

Foremost of Grand Rapids has been licensed in Washington.

Raps Proposal For Auto Accident Board In Cal.

The announced intent of Gov. Brown of California to establish an automobile accident commission similar to the workmen's compensation industrial accident commission has brought forth considerable opposition from the insurance industry, although such a bill has not yet been introduced.

James T. Blalock, vice-president of Pacific Indemnity, said "such a substitution of basic concepts is so shocking as to be wholly unacceptable."

Opponents of the proposal, according to Mr. Blalock, counter the proponents' claims that such a system would reduce litigation, costs and high division of awards with attorneys, by pointing out that the situation surrounding workmen's compensation is entirely different from that of the automobile victim; that persons with earned income present a variety of problems such as the accurate determination of weekly earned income for computing indemnity payments. He said there would be administrative costs in connection with self-employed persons as well as seasonal employees; also housewives, children, and unemployed persons. Then there is the inclination to malingering, thus increasing the duration.

Mr. Blalock also claimed such a program would require a large investigative force with the possibility of collusion and faked claims—all of which would involve great expense. Another point he brought out is the more than 500,000 tourists to the state each year and a large increase in litigation before the administrative tribunal.

Hartford Fire Field Men In Conference At Atlanta

Southern department field men of Hartford Fire are holding a two-day conference at Atlanta. The agenda includes discussions of group operations, production and sales, underwriting procedures, company advertising and promotion, and specific phases of fire and casualty coverages.

Fire and casualty field men and department heads are attending the meeting. Roland H. Lange, assistant to the president, and James F. Wyatt, secretary, are representing the home office. John H. Ledbetter, southern department manager, is presiding, assisted by George S. Hunter, assistant manager, and John R. Hopkins, manager of casualty and surety.

Zurich has filed a low cost private passenger auto plan known as Meritmatic in Washington and Oregon, effective Feb. 1.

FIRE - CASUALTY OPENINGS \$12,500 - \$6,500

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East	Casualty Undwr. Mgr.	\$12,500.
W. Coast	Fire-Casualty Contr.	\$12,000.
M. West	Fire-Cas. Agcy. Dept. Supv.	\$8,500.
M. West	Safety Engr.-Audit Supv.	\$7,500.
M. West	Casualty Special Agts.	\$6,500.-
South	Jr. Fire Underwriter	\$6,500.

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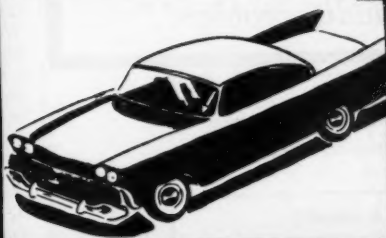
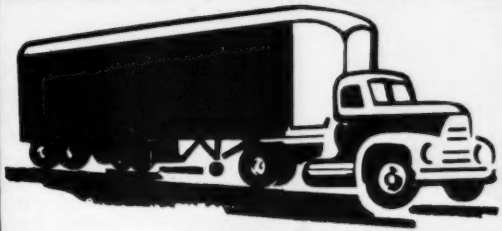
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Sees Lack Of N. Y. Auto Market Leading To State Fund; Scores Rate Hagglng

Continued deterioration of the automobile insurance market may open the door to unwanted legislative action, possibly in the form of a state fund in New York, Matthew Napear, former chairman of Greater New York Insurance Brokers' Assn., told the annual meeting of Boston Board of Fire Underwriters. He said that the stand-out feature of the past year was the

tremendous growth of the assigned risk plan in New York because of the increasing resistance the companies showed toward taking the business through regular channels.

Mr. Napear noted that even the new Motor Vehicle Accident Indemnification Corp., which has begun operations in New York to pay losses to victims of uninsured motorists, might have an

adverse effect on the market. Each added burden to the loss structure of the companies, which cannot be met by proper rate increases, will serve only to constrict the market still further.

He observed that the direct writers appear also to be adversely affected, pointing out that there seems to be a considerable diminution of their aggressive search for automobile business on a rate appeal and broad policy advertising pitch.

Mr. Napear was critical of the timing the New York insurance depart-

ment chose to challenge the method of revising rates used by the bureaus. He said that the case currently before the New York court of appeals may give the answer to the question of which technique of computing rates is correct, but he added that in the face of practical necessities, it was inopportune. As the department and the bureaus exchange briefs in the 14 month old dispute, Mr. Napear said, the producer stands helplessly by watching his markets disappearing while the commissions on his remaining business are slashed.

High Jury Verdicts Big Item In Rate Rise: Rust

The liberality of jurors throughout the country in verdicts for plaintiffs in personal injury damage suits resulting from highway traffic accidents is one of the main reasons for rising automobile insurance rates, Adlai R. Rust, chairman of State Farm Mutual Auto, stated in addressing a regional meeting of its agents in St. Louis. He said that a \$15,000 verdict "is nothing unusual today" in a case in which the company might reasonably expect to pay only \$2,500 and opined that jurors do not seem to understand that this "giveaway program" must be paid by all persons who carry automobile insurance, not by the companies. "The companies only do the arithmetic," he added. Other reasons why rates had to be raised he gave as increased medical and hospital costs and higher automobile repair charges and said the main hope for lower insurance rates is in concerted community action to reduce automobile accidents.

Gulf Promotes Four

Gulf of Dallas has promoted four in the head office: H. D. Helm becomes assistant vice-president, and Charles F. Rowland, W. G. Hart, and B. D. Beene become assistant secretaries.

New Law Firm At St. Louis

ST. LOUIS—F. W. Mueller and Francis L. Kenney Jr., have formed a law partnership under the name Mueller & Kenney for the general practice of law, specializing in surety and fidelity bonding, with offices at 302 Merchants-Laclede building.

Mr. Kenney was formerly special assistant to the manager of the uranium division of Mallinckrodt Chemical Works here and prior to that was bond and burglary claim superintendent of American Auto and also served as counsel for the underwriting department. He is chairman of atomic energy commission of St. Louis Bar Assn.

Peerless Names Boyland In Mich.

Peerless has named Joseph F. Boyland resident vice-president at Grand Rapids. He has been in insurance since 1931.



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U.S. Supreme Court Rules On WC Point

The U. S. Supreme Court has ruled in *Hahn vs. Ross Island Sand & Gravel*, that Hahn, who was injured on the job, could reject benefits under the longshoremen's and harbor workers' compensation act and bring a negligence action against his employer for damages. This was possible because Hahn's injury occurred in the controversial "twilight zone," i.e., its nature was such that he was eligible

to recover compensation under either the longshoremen's act or the state WC act.

Hahn's employer rejected the state WC benefits and secured payment of compensation to Hahn under the longshoremen's act. But Hahn rejected those benefits and sued. The court ruled that he was within his rights in doing so because by its terms the longshoremen's act does not apply if recovery for disability through WC may validly be provided by state law.

"Of course, the employee could not do this if the case were not within

the 'twilight zone,' for then the longshoremen's act would provide the exclusive remedy," the high court stated.

The decision reversed Oregon supreme court. Justices Harlan and Stewart dissented.

Casualty Underwriters. Assn. of Providence, R. I., has elected William Fowley, Fidelity & Casualty, president; Edward S. Hawes, Providence-Washington, vice-president; Alvin Adams, American Employers, treasurer, and William Avison, Boston, secretary.



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64 Lawyers In Fraud Probe In Brooklyn

The appellate division of Brooklyn has revealed that 64 Brooklyn lawyers have been under investigation following Supreme Court Justice Arkwright's inquiry into ambulance chasing. In a statement made after Justice Arkwright's last report, which was not made public, the division noted that 41 attorneys cited in the 12 extensive reports of the inquiry have been referred to the district attorney's office for possible criminal or disciplinary action or to official referees for hearings, reports and recommendations. The activities of the other 23 are still being scrutinized.

The reports also include charges against others associated with these attorneys, including doctors, dentists, public adjusters, garage men, insurer representatives and real estate and insurance agents and brokers. Charges against them have been referred to proper authorities.

Action To Date

Last June the reports suggested that 10 lawyers and eight doctors be prosecuted criminally. Since then, one lawyer has been acquitted of padding an expense bill to an insurer; another received a suspended sentence on the same charge, and a third was disbarred by the appellate division for unethical conduct.

The division's statement said that the number of lawyers involved in the inquiry is a very small section of the Kings county bar, in fact less than one-half of 1%. It has been reported, however, that some insurers do not feel this presents a complete picture. They note that an average of 200 negligence cases are filed daily in the Brooklyn appellate division, representing some \$3 million in damage claims.

Justice Arkwright has retired from the supreme court and has become an official referee of that body. The judicial inquiry will continue under Justice Baker of Staten Island.

Winston-Salem (N.C.) Insurance Exchange elected Harold A. Tucker, associate manager of Wachovia Bank & Trust Co. insurance department, president. Robert P. Whaling of Pilot agency was elected vice-president and Radford M. Moore of Follin agency secretary-treasurer.



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Bishop Promoted By Citizens Casualty

Robert H. Bishop, underwriting manager of lines written by the casualty department of Citizens Casualty has been appointed assistant secretary. Mr. Bishop joined Citizens Casualty two years ago. He has had 16 years' experience. He was with American prior to joining Citizens Casualty.

N. C. Glass Rise Approved

Commissioner Gold has approved North Carolina Fire Insurance Rating Bureau's request for increased auto comprehensive rates on 1959 model cars to compensate for the greater cost of replacing glass. The increases, which became effective Jan. 14, provide for a \$1 rise on \$50 deductible and a \$3 rise on a full coverage policy.

Midland (Mich.) Agents Reelected

Bernard Bailey, president, and all other officers of Midland (Mich.) Assn. of Insurance Agents were reelected. Earl Peek was named assistant secretary.

Four Appointed By Standard Accident

Standard Accident has appointed John L. Hight assistant manager of casualty and property underwriting at Detroit, and John L. Kelly bond manager at Kansas City. Also, Robert J. Quail has been named supervising field representative at Detroit and Henry F. Reints becomes assistant manager of the eastern bond claim department at New York.

Mr. Hight joined the company in 1936 and since 1950 has been a property and casualty underwriter and field representative. Mr. Kelly, field representative at Kansas City since 1956, joined the company in 1952. Mr. Quail has been with Standard Accident since 1939. Mr. Reints came to the company in 1954 as a claims representative and has served in that capacity since then.

Mutuals Raise Ark. Auto Rates

Mutual Insurance Rating Bureau has revised private passenger auto BI and PDL rates in Arkansas, effective Jan. 14. The revisions result in an average increase of 19.8%.

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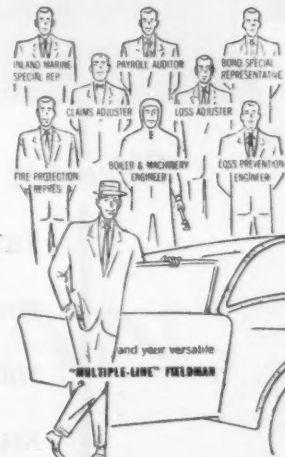


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Ark. Legislators Face Bill For Compulsory, New Insurance Code

LITTLE ROCK—The Arkansas legislature early in its 1959 session has found itself already confronted with two important insurance matters: Adoption of a 475-page insurance code, and consideration of a bill for compulsory automobile insurance.

The insurance code was prepared by a commission headed by Commissioner Combs which was created by the 1957

general assembly. Robert N. Williams, Seattle attorney, assisted in drafting the new code which is about the size of a mail order catalogue. Veteran observers in the general assembly claim it is the largest bill ever to be submitted to the legislature. Gov. Faubus, in his inaugural address, urged adoption of the code, which has the endorsement of Arkansas Assn. of Insurance Agents. The senate will hold a public hearing, Jan. 29, on this proposed legislation.

The compulsory automobile insurance bill was introduced to the house

by Rep. Van Delsem, who is regarded as a powerful and effective legislator. The Van Delsem bill will run up against vigorous opposition of all segments of the insurance industry.

Phoenix-Hartford Promotes Welton To Ass't Manager

Phoenix of Hartford has promoted Robert M. Welton from state agent to assistant manager of the Hartford district office. Previously he was in charge of casualty operations in that area. He joined the company in 1951.

Direct Writer Requires Detailed App Signed, On Simple Fire Lines

One of the direct writers has developed an application form for fire coverages on dwellings and household and personal effects. To obtain fire coverage alone, or with extended and additional extended coverage, or a broad form policy which combines the preceding three, the applicant must answer an extensive questionnaire.

He must furnish personal data and a complete physical description of his property in such detail that it approaches the scope of an inspection report. Full information is required on any business activities carried on within 60 feet of the dwelling. Description of the occupancy, type of construction and distance from the dwelling of these business buildings must be furnished.

The applicant is also asked whether he has had a fire loss in the past five years or a cancellation or refusal of fire coverage in the same period. He must indicate whether he is insured for other lines—automobile, life, etc.—by the company. Finally, he must sign a statement "declaring" that his answers to all questions and the facts stated are true with the understanding that the company will issue the policy or any renewal thereof in reliance on these answers.

Agency companies are presently debating whether to require an application for the new homeowners 5 which will replace homeowners C in the new program. The disastrous experience on C is attributed by some to lack of requirement of an application. Opposition to use of applications for automobile coverage signed by insured still lingers in agency ranks, although the attitude toward this need has softened in recent months.

Non-Drinker Auto Insurer Forms Similar Life Co.

Dixie Auto of Anniston, Ala., formed in 1955 to write auto insurance for non-drinkers, has formed a life affiliate, Dixie Life & Casualty, which will also write only non-drinker business. The life company begins with \$100,000 capital and \$100,000 surplus. C. R. Bell, president of both companies, stated that the success the company has had in writing auto on non-drinkers resulted in the formation of the life company.

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Aetna Life Group On Unusual TV Program

Aetna Life affiliated companies are sponsoring a series of concerts over WTIC-TV, Hartford. The hour-long concerts, featuring familiar classical and popular music, originate from the Aetna Life auditorium.

Continental Names Goff To Claim Position

Continental Casualty has promoted Fred L. Goff Jr. to assistant general claim attorney. He had formerly been claim supervisor.

Mr. Goff joined Continental in 1946. He will primarily have supervision of claims and claim activities arising from the reinsurance division, including excess and surplus lines.

Cal. Agents Name Elliott Assistant Secretary

Carter G. Elliott has been named assistant executive secretary of California Assn. of Insurance Agents. He replaces James L. Watson, who is going into public relations work in New York.

Mr. Elliott, during the past year, has been associate editor of Underwriters' Report. Prior to that he was with the advertising department of California Packing Corp. at San Francisco.

Richard E. Blakeley has joined Johnson & Higgins at Chicago. He was formerly insurance manager of Helene Curtis Industries. He is a director and president of Chicago chapter of American Society of Insurance Management.

F.&D. Appoints Two At Indianapolis

Fidelity & Deposit has appointed O. W. Schooley manager of the Indianapolis branch and Lawrence E. Wesner assistant manager. Mr. Schooley, who succeeds the late Ben R. Turner Jr., has been assistant manager there since 1940. He previously had been at Cleveland.

Mr. Wesner joined F.&D. in 1936 and served as an underwriter in the fidelity department until 1941. Following four years in the service, he rejoined the company at Philadelphia. He transferred to Indianapolis in 1957.

Dallas Claim Managers Elect McCarthy President

Dallas Claim Managers' Council has elected the following officers for 1959: Bernard J. McCarthy, Indemnity of North America, president; Frank P. Albright, Hardware Mutual, vice-president, and Dock Hoffman, Employers Liability group, secretary-treasurer.

Davis Opens New Agency

ST. LOUIS—L. Gordon Davis, formerly an executive of Utilities and American Auto here for many years, has purchased the Apex agency and opened a new office at 20 South Central avenue, Clayton. Apex agency represents Commercial Union, Employers Casualty, Home, New Amsterdam Casualty, Norwich Union, Standard of New Jersey, Western Surety, and Yorkshire. Mr. Davis entered the business with Travelers at Cleveland. He became vice-president and agency director of Utilities in 1955. The past year he has been in the agency field.



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N. Y. Agents Outline 1959 Legislation

The Agency Forum, publication of New York State Assn. of Insurance Agents, has outlined its legislative program to members. One is an amendment to the workmen's compensation law to provide that State Fund shall not initiate the solicitation of, negotiation for, or procurement or making of any contract of insurance. The state facility writes WC and statutory disability.

The fund claims that it does not directly solicit business in competition

with private enterprise, the publication points out, but there is evidence to the contrary. The wording of the proposed amendment therefore defines solicitation so as not to prevent the fund from carrying on its regular activities with present or prospective insured who come voluntarily to it.

The publication emphasizes that at present, group managers who administer trade group plans under the fund are not required to be licensed to sell insurance. Therefore the association

is supporting another amendment to the WC law to prevent any person being designated as a group manager or association representative for any group unless he is a licensed agent or broker.

Exempted From Licensing Law

At present, state law exempts agents or representatives of domestic assessment cooperative fire insurers (except multiple line insurers) from the licensing law. New York agents propose to retain this exemption. But they recommend an amendment which pro-

vides that such an agent or representative appointed after July 1, 1959, and not licensed as an agent shall not be relieved of complying with license requirements unless he submits to a written examination covering the kinds of insurance written by his corporation and receives a certificate showing that he has successfully passed the examination to the satisfaction of the superintendent. This proposal represents an agreement between the New York association and New York State Central Organization of Co-Operative Fire Insurers.

Law Affects Rate Filings

The agents point out that at present all segments of a rate filing require justification with figures except the acquisition or production cost portion of the filing. The agents believe that rating bureaus or independent filers should justify all portions of the rate. Accordingly they are sponsoring an amendment to the state law to establish that it is the declared public policy of the state that whenever rates are filed by or on behalf of companies doing business through licensed agents or brokers that these rates shall provide for fair and reasonable compensation to the producers.

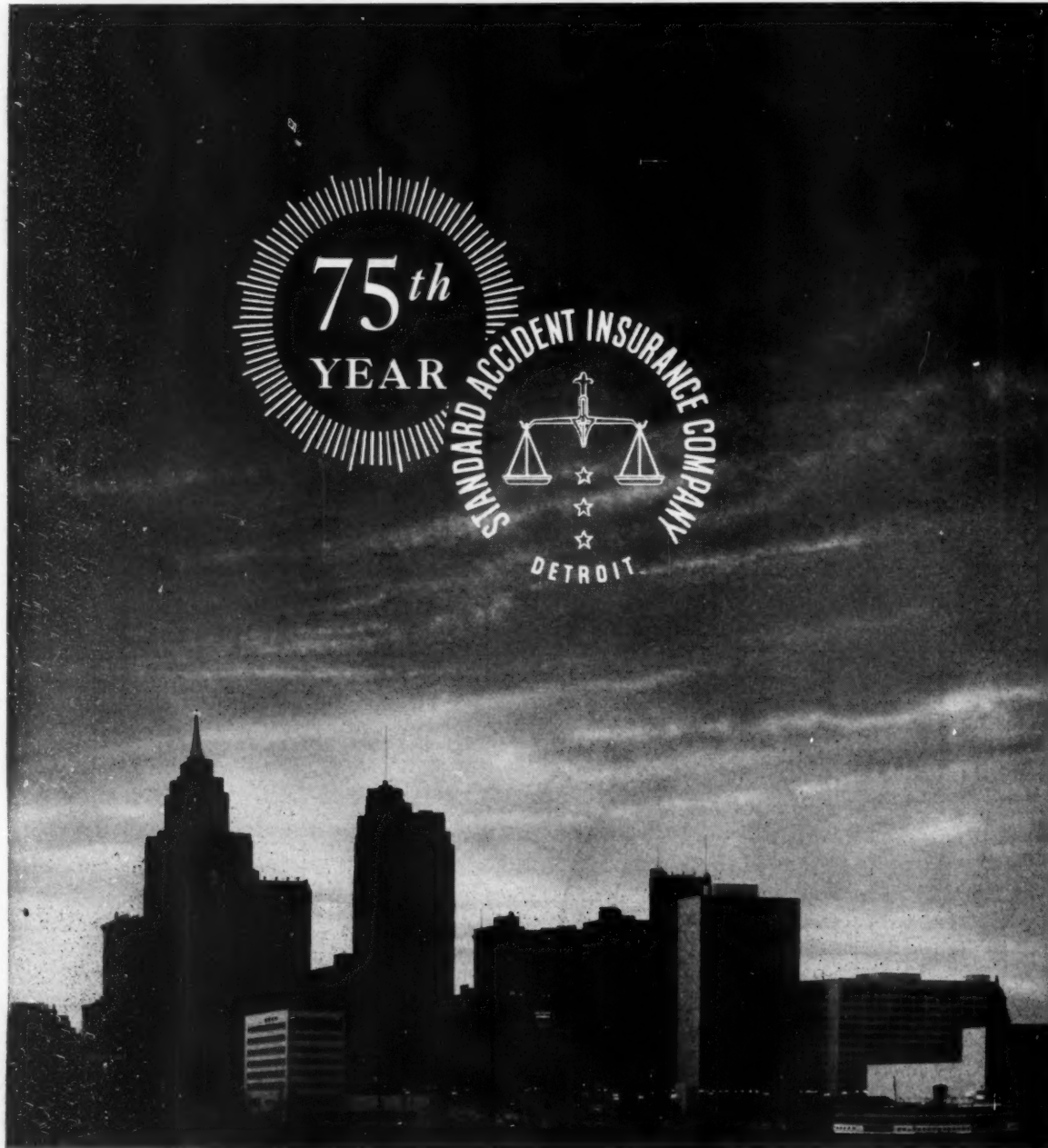
The agents also are sponsoring an amendment to curtail the offer of free insurance with the purchase of property, goods, securities, commodities and services, or with subscriptions to periodicals.

Since only stock and mutual insurers are required to pay lump sums into the aggregate trust fund under the workmen's compensation law at present, the association is backing an amendment to require all insurers, employers and self insurers, including municipalities, to deposit future payments in the fund.

N. Y. CPAs Name Committee On Insurance Accounting

New York State Society of Certified Public Accountants has named Julian R. Maher of the New York accounting firm of Lybrand, Ross Bros. & Montgomery, chairman of the committee on insurance companies and agencies accounting. Also on the committee are Harold J. Weimar, Great American, and Clarence H. Richardson, New York Life.

U. S. Fire has elected George C. Textor, president of Marine Midland Trust Co. of New York; Walter E. Warner Jr. of the New York law firm of Chambers, Clare & Gibson; and Owen E. Barker, president of Appleton & Cox, directors.



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Blum Notes Gap Between Value And Loss

(CONTINUED FROM PAGE 2)

that answers can be given quickly.

Competition between companies on the production side of the business is wholesome, but competition between loss departments is as devastating as such competition would be between various agents in the federal revenue department.

—In the final analysis, isn't "value" bound to be personal in nature because of the "use" element?

—Is there such a thing as a "natural unit?"

—Does loss management know just what the 2% waiver clause says? In reverse?

—Is the replacement endorsement a fraud?

—Is the fire policy an indemnity contract or a disbursement contract?

—Is a building a "thing" or an "inventory" of things?

The premium dollar, the coinsurance clause and the loss dollar seem to live together fairly happily when personal property is involved. Personal property comes in such natural units that detailed inventory thinking and selective evaluation are almost automatically expected. Also, to a high degree, personal property is "in trade" and so price and value are more closely related.

Real property is not so obviously segmented. Buildings, which are insurable, are wedded to real estate which is not insurable, although the value of one can effect the value of the other. Buildings come in bundles of "natural units," so a detailed inventory and selective evaluation of these natural units is not so obviously suggested.

Large units of personal property are comprised of stocks of merchandise which are being bought and sold by the hour, and because credits and debits are a must, records of such values are kept and when the policy is sold on stock the premium developed combined with the coinsurance clause, and the loss dollar (when a fire occurs) are almost certain to be within a fair statistical relationship. On stock losses, the claimant unquestioningly expects to prepare a detailed inventory of all the property covered by the policy and to show in detail value and loss to each item. This is the custom despite the fact that all inventory work is laborious and costly and human nature would like to avoid it and find short cuts and rule-of-thumb methods. However, on personal property it cannot be done, and even large industries will inventory stock once a year and that in-

ventory will be priced and valued on a selective and on a unit basis, not on a blank average basis.

Such detailed thinking and working, however, is not true of buildings. There are similarities between buildings that cannot exist between personal property owned by different individuals. Because of these similarities, there has developed a general use of the cube foot or square foot pricing in establishing retail cost of buildings. And then, because there are no details available, it is custom to evaluate the entire building on a percent per year of age rate of depreciation. This percent per year of age rate of depreciation used so commonly in fire insurance evaluation of buildings seems to have been borrowed from the custom allowed by the revenue department. It works out in a practical way for tax purposes, but there isn't an ounce of fact in the percent per year of age method is used on replacement costs to develop building values.

Used By Amateur Appraisers

It is, however, a handy method and is used continually by amateur appraisers. Evidence of the fictional quality of the percent per year of age rate of depreciation is provided by the sort of unwritten law used by many in the insurance business, that an occupied building never depreciates more than 50%. A 50-year old building is commonplace today, and a 2% a year rate of depreciation on such a building would produce a zero value. Theoretically, it would have worn itself into dust and blown away, although actually it does exist and is being used just as completely as a new building. Its component parts or natural units are just as subject to fire damage as similar units would be in a new building.

Every day brokers and agents sell insurance on older buildings and on buildings in rundown or semi-blighted areas on a basis of a value developed by using an approximate measurement to find cubic or square feet, applying to that uncertain result a still more uncertain unit price per foot and so developing an alleged replacement cost. Then, whatever merits might be represented by that answer are being determined by applying the handy but fictional annual depreciation percentage.

The final answer is labeled value and the premium received by the insurer can be no better than that value despite the best statistical records.

That is bad enough, but it isn't all. When a loss occurs, the adjuster, with few exceptions, follows custom and works only on the restoration cost. Sometimes, if decorating is bad and the roof leaks badly, a little depreciation is deducted. The restoration cost less a token depreciation on decorating and roofing becomes the loss—a loss in no way related to value.

It is not uncommon today to find that although the value of a building is set at 50% of replacement cost, the adjuster will consider as a loss almost all the disbursements an insurer is

faced with to effect restoration, and this is accepted custom despite the relating effect intended by the coinsurance clause.

In other words, value is one thing for premium purposes and the loss is another thing for disbursement purposes, and the statistical relationship between the two gets farther apart every year despite the intent of the coinsurance clause. A double standard is being used. Insurance establishes a reduction in rates for older buildings, and charges the full rate for a new building.



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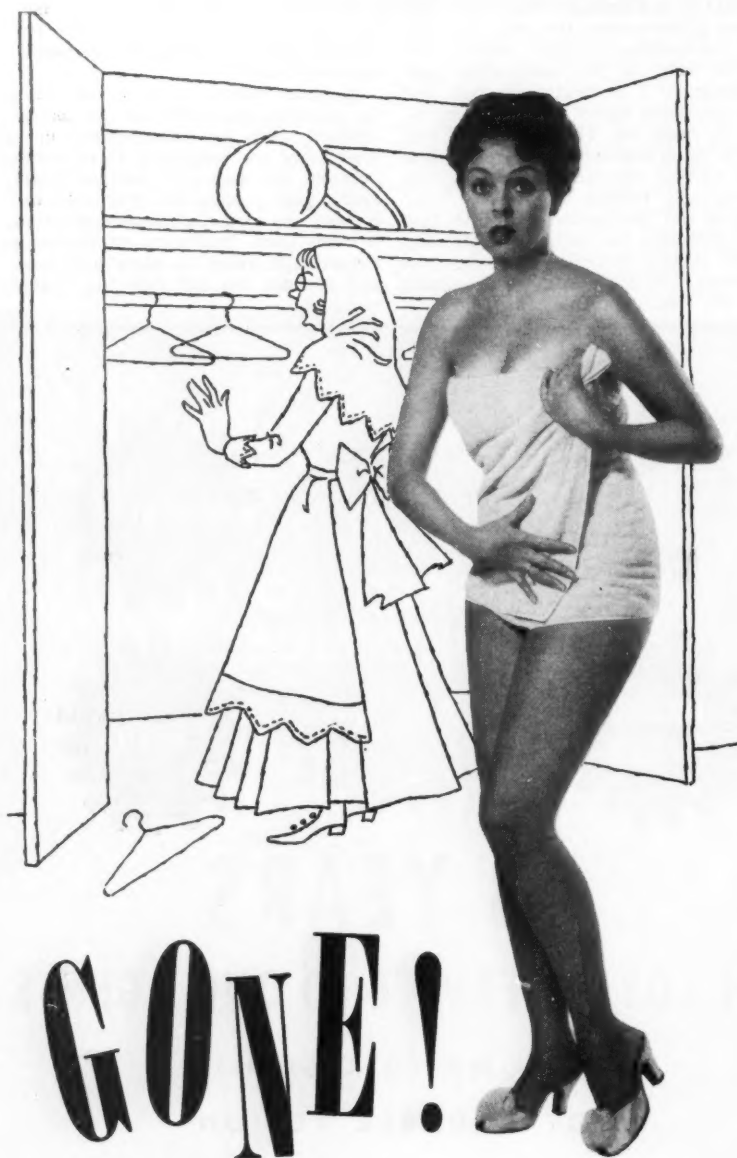
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Convention Dates

- Jan. 30-31, National Assn. of Claimants' Compensation Attorneys, midwinter, Sheraton-Cadillac Hotel, Detroit.
- Feb. 5-6, Conference of Mutual Casualty Companies, fire conference, Conrad Hilton Hotel, Chicago.
- Feb. 16-18, Health Insurance Assn., group insurance forum, Biltmore Hotel, New York.
- Feb. 25-27, Michigan agents, midyear, Statler-Hilton, Detroit.
- Feb. 26-28, Texas mutual agents, midyear, Commodore Perry Hotel, Austin.
- Feb. 26-28, Tri-State Mutual Agents Assn. of Pennsylvania, Maryland & Delaware, annual, Penn-Harris Hotel, Harrisburg.
- March 4-5, Insurance Underwriters Assn. of the Pacific (formerly FUAP), annual, Sheraton-Palace Hotel, San Francisco.
- March 9, West Virginia 1-Day, Stonewall Jackson Hotel, Clarksburg.
- March 12-13, Conference of Mutual Casualty Companies, underwriting conference, Conrad Hilton Hotel, Chicago.
- March 23-25, National Assn. of Independent Insurers, workshop, Shamrock-Hilton Hotel, Houston.
- March 23-25, National Assn. of Mutual Insurance Agents, midyear, Hollywood Beach Hotel, Hollywood, Fla.
- March 25-27, Pacific Insurance & Surety Conference, annual, Santa Barbara Biltmore Hotel, Santa Barbara, Cal.
- March 27-28, Southern Agents Conference of NAIA, Admiral Semmes Hotel, Mobile.
- April 2-4, National Assn. of Surety Bond Producers, annual, Plaza Hotel, New York.
- April 5-7, Eastern Conference of the National Assn. of Insurance Agents, annual, Hilton-Statler Hotel, Buffalo.
- April 5-7, Midwest Territorial Conference of the National Assn. of Insurance Agents, annual, Hotel Skirvin, Oklahoma City.
- April 5-7, Oklahoma agents, 50th annual, Hotel Skirvin, Oklahoma City.
- April 13, Rhode Island Assn. of Insurance Agents, midyear, Sheraton-Biltmore Hotel, Providence.
- April 15-20, Mississippi and Louisiana mutual agents, (combined), annual, on cruise to Havana.
- April 16-17, Ohio mutual agents, annual, Neil House, Columbus.
- April 19-21, Rocky Mountain Territorial Conference of NAIA, Broadmoor Hotel, Colorado Springs.
- April 26-28, Far West Agents Conference of NAIA, annual, Hotel Westward Ho, Phoenix.
- April 26-28, Iowa agents, annual, Roosevelt Hotel, Cedar Rapids.
- April 26-28, National Board of State Directors of NAIA, midyear, Westward Ho Hotel, Phoenix.
- April 27-29, National Assn. of Insurance Agents, midyear, Westward Ho Hotel, Phoenix.
- April 30, Midwestern Independent Statistical Service, annual, LaSalle Hotel, Chicago.
- April 30-May 1, Conference of Mutual Casualty Companies, claim conference, Conrad Hilton Hotel, Chicago.
- April 30-May 2, North Carolina agents, annual, Carolina Hotel, Pinehurst.
- May 3-5, Alabama agents, annual, Whitley Hotel, Montgomery.
- May 3-5, New York agents, annual, Hotel Syracuse, Syracuse.
- May 4-6, American Mutual Insurance Alliance, annual, Edgewater Beach Hotel, Chicago.
- May 4-6, Health Insurance Assn., Bellevue-Stratford Hotel, Philadelphia.



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Old Mother Hubbard went to the cupboard

To get her poor daughter a dress,

But when she got there, the cupboard was bare,

And so was her daughter, Bess!

She couldn't feel gay, no insurance had they,

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Suppose a client of yours had a fire today. If his insurance proved inadequate, could you expect much future business from him?

Suppose another client is carrying more insurance than he actually needs. Some other agent could show him how to save on premiums, which certainly wouldn't help your cause.

When your client doesn't have proper coverage, you stand to lose some business.

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IMIB Clarifies New Deferred Pay Plan

Inland Marine Insurance Bureau has issued an explanatory bulletin in reply to many inquiries concerning the new deferred payment plan and its application under certain circumstances.

Companies are not required to follow the format of the filed form, the bulletin explains. Thus the format may be changed as desired, but the endorsement must contain all of the language in the filed form, beginning with the words "in consideration of the rate for the policy, etc." through the sentence, "in the event the earned premium exceeds the paid premium the insured shall pay the company the difference."

In lieu of the deferred payment plan adjustment endorsement a company may substitute its own form of endorsement provided it sets forth the nature of the change, the total additional or return premium for the remainder of the term, the additional or return premium due at the time of change, and the revised amount of the subsequent payment or payments.

Arithmetical Procedures

In the case of policies subject to rating by formula (personal property floater, etc.), or to graduated rates (jewelry and furs, etc.), the company may determine the total premium in the customary way, multiply that premium by 35% and thus obtain the deferred payment annual rate. In such cases this annual premium is to be shown on the face of the policy in addition to the term premium. Alternatively, the component rates in the case of formula or graduated rates may be converted into deferred payment annual rates in the manner outlined in the rules.

The bureau believes that if those making the necessary arithmetical calculations will consider that, wherever it becomes necessary to do so because of the use of any factor other than a single rate, "rate" and "premium" may be considered synonymous, the answer to most of their questions will be obvious. At the March meeting of the executive committee, it will be suggested that the filing be amended to provide that the deferred payment plan annual minimum premium shall be 35% of the minimum premium which would otherwise be applicable for the full term, but not less than \$10.

Donohue Is Raised By Reciprocal Managers

Vincent E. Donohue has been elected executive vice-president of Reciprocal Managers Inc., attorney-in-fact and manager for American Reciprocal Insurers. He has been with the organization for 22 years, in the field and in the sales and service department at the home office. He became vice-president in 1946.

Reciprocal Managers also elected John I. McCarthy and B. William Nelson Jr. assistant vice-presidents, and Theodore S. Burant, George Danko and Robert V. Fallon assistant secretaries. All have been with the company a number of years.

Flaxman Elected Director Of Hartford Fire Group

Barnard Flaxman has been elected a director of Hartford Fire and Hartford Accident. He has been with the group since 1924, was elected an assistant secretary in 1937, secretary in 1944 and vice-president in 1952. He is a director of the other companies in the group. A 1922 graduate of Syracuse University, he is a trustee of the university and a member of its finance committee.

N. C. Asks WC Contribution

Commissioner Gold has sent out his second call within a year for stock and mutual companies to contribute to the North Carolina workmen's compensation security fund. This request is for a contribution equal to 1% of WC premiums for the last six months of 1958. The previous request was for 1% of premiums for the preceding six months. The commissioner believes that the second contribution will be sufficient to bring the security funds up to the required statutory minimum of 5% of loss reserves reported by all licensed companies writing WC.

George Armstrong Retires

George E. Armstrong, associate manager of Phoenix of London's Indianapolis office, has retired. He was formerly manager of that office, but due to poor health relinquished the position in favor of Robert J. Bell in 1952 and became associate manager.



"Hope you get the point, Boss"



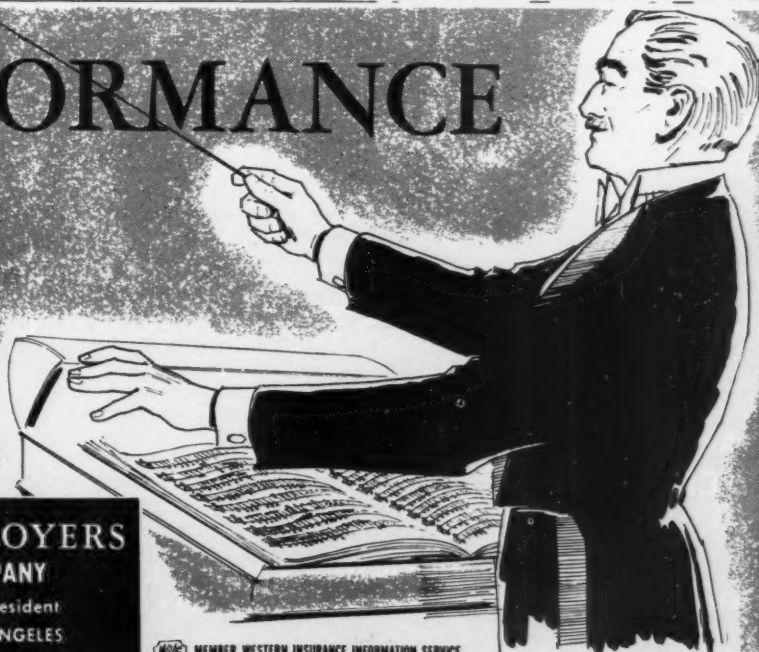
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Stresses The Major Values Of Convention Examination System

James E. Duduit, chief examiner of the Indiana department, comments on the stories in the Jan. 9 and 10 issues as follows:

One or two horrible examples of abusive procedure are noted in the article with very little attention drawn to two remarks attributed to Commissioner Humphreys of Massachusetts, i.e., "the convention examina-

tion system is a good system," and "getting no reports of examination abuses from industry or commissioners, Mr. Humphreys assigned a crack staff investigator to work directly under him to study and report on convention personnel currently engaged in examining Massachusetts companies."

I will not attempt to refute any specific abuse pin-pointed by you, Mr. Humphreys, or anyone else of competent judgment. I would like to point out to you, however, that any number of these cases of abuse that might be found will be insignificant in relation

to the total number of examinations made each year and the total number of examiners engaged thereupon. It doesn't surprise me that few reports of abuses are made, for there are many cases where companies are pleased rather than disgruntled with the examination as a whole.

Examiners Quality Has Improved

On behalf of all conscientious examiners nationwide, and there are a greater number of these, by far, than the relatively small number of para-

(CONTINUED ON PAGE 18)

Suggests Paying Exam Costs From Present Tax Money

Graham L. Russell, secretary of Royal-Globe, writes regarding "The Convention Examination Examined":

Your editorial in the Dec. 5 issue is quite provocative. However, it is not quite clear how your proposal to substitute a premium tax for examination fees would reduce excessive time, incompetent personnel or extensive interference with company personnel. Apart from the small shaky insurer, the present examination fee system results in charges roughly proportional to the size of the insurer and a premium tax would not alter this distribution of examination costs among the insurers. However, it is believed that a tax of even one-fourth of 1% would exceed present examination costs.

It is true that the examination protects the public, but the public is already paying extensive premium taxes for this protection. (When rate levels are inadequate, it is the stockholder who pays the premium tax.)

Departments Get Little

An important point in this entire subject is the fact that the millions and millions of dollars of premium taxes which are being paid by the public are diverted to non-insurance activities of state governments. In practically every state the amounts appropriated for the operation of insurance departments are only a small proportion of the total "tax take" of the state. Since the premium tax is a function of premium levels which are constantly rising, the premium tax income of the states is constantly rising. Furthermore, as in the case of excise taxes, the impact is hidden in the price of the product, and thus premium taxes are a more painless way than sales taxes or income taxes for states to raise money. The diversion of taxes in some cases reaches 100%, as in the case of New York, where 34% of the total expenses of the insurance department are covered by examination fees, 27% by other fees collected for licenses and certifications, and the remaining 39% is assessed against domestic companies only.

Would it not be preferable, therefore, instead of merely changing the form of examination costs, to pay for this valuable activity out of monies already being paid by the public.

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N.J. Court Rules Two Excess Policies Must Share Auto Claim

New Jersey supreme court has ruled that where two insurers issue automobile liability policies with similar clauses providing that they shall be excess insurance, both should have the same legal status. The court held that Continental Casualty and Cosmopolitan Mutual should share equally in a settlement of \$11,800 and expenses in a case stemming from an accident involving a truck rented by Essex County News Co. from U-Drive It Co. of Newark.

On June 10, 1956, the news company hired a truck from U-Drive It. While the truck was being operated on business of the news company by its employee, McCollum, it was in an accident with another vehicle whose driver, Frese, sustained personal injuries. He brought action against McCollum and the news company. At the time of the accident, Cosmopolitan Mutual insured the news company under an automobile liability policy. Under the omnibus clause of the policy, McCollum, as an employee, was an additional insured. The policy contained a clause which stated that it should be excess over other collectible insurance.

Had Required Liability Coverage

At the time of the accident, U-Drive It was insured by Continental Casualty. This policy was acquired in accord with state law which required anyone engaged in the renting of motor vehicles to carry liability coverage for the benefit of persons suffering loss or damage by reason of the operation of any rented motor vehicle. Although the statutory limits were 5/10, Continental carried 10/20. The lessee, Essex News Co. and its driver, McCollum—were insured under the omnibus clause of this policy. There was also an excess clause in this contract.

Cosmopolitan Settles Claim

Cosmopolitan requested Continental to investigate the Frese claim and to defend the action. Continental refused. Cosmopolitan then undertook the defense in behalf of its insured, the news company and McCollum. At the same time, it instituted action for declaratory relief in the chancery division of superior court. The complaint in this latter action alleged that Continental, under its policy with U-Drive It, was the primary insurer and therefore should defend against Frese's claim and was obligated to pay any judgment entered against the news company and McCollum. Continental filed an answer and counterclaim, alleging that Cosmopolitan was the primary insurer and was therefore obligated to defend the Frese suit and pay any judgment he might obtain. While this action was pending, Cosmopolitan settled Frese's claim for \$10,000 and expenses totaling \$1,800. Consequently,

(CONTINUED ON PAGE 19)

Claim Files Crammed With Hula Hoop, Rocket And Skin Diver Cases

Travelers has reported that its accident files reflect all the fads, fancies and gadgets of the day. Mishaps caused by devices and diversions unheard of a generation ago are occurring daily to the company's accident policyholders. An informal review of some 36,000 accidents, involving policyholders in 1958, calling for payment of more than \$5 million, revealed many odd and unusual cases.

Scores of skin diving accidents featured 1958, at least two of them fatal. A rash of spills and sprains resulted from the hula hoop fad. Golf-mobles made the fairways seem almost as hazardous as the highways.

Do-it-yourselfers, armed with the latest tools, are bulging the accident files. A vice-president of a Boston bank was on top of a stepladder when his electric drill short-circuited and threw him onto a concrete floor. He collected \$1,345. A Toronto resident was laying tile on his basement floor, using a blow torch to warm the tile squares. Forgetting to turn off the flame, he poured gasoline into the torch. He burned his right side from shoulder to knee and was paid \$611. A Jacksonville businessman who enjoys the role of gentleman farmer was cornered by a discontented cow. She mauled him, and his injuries resulted in a claim for \$1,875.

Run Down By Greyhounds

Two racing greyhounds knocked down a Des Moines spectator who did not get off the track quickly enough. His sprained ligaments cost \$85 to repair. A cat in Wichita resented its mistress' putting it out for the night, bit her hand and scratched her legs severely enough to result in a \$100 claim.

A painting contractor from Regina, Saskatchewan, leaned far over the rail of a ferryboat to see how the craft cast off from shore. He fell and landed on a lower deck. His broken hip was mended at a cost of \$3,461. A Tauton, Minn., sportsman dislocated the index finger of his right hand by not letting go of a bowling ball soon enough. This seemingly trivial incident was serious, for the policyholder was an expert hand-crafter. He was paid \$63 for a week's partial disability.

A Grand Rapids ice fisherman cut one hole in the ice, then cut another. Moving back from the second hole, he stepped into the first. Torn ligaments of the left leg cost \$536. In Rosedale, Ontario, a policyholder returned home from his summer cottage and realized that he had left his house key there. He phoned police to help him break into the house. A policeman climbed an iron balcony to enter an unlocked door on the second floor. The balcony gave way. The balcony and the policeman landed on the homeowner. He was paid \$93 for minor injuries.

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Stresses Values Of Convention Exam System

(CONTINUED FROM PAGE 16)

sites and free-loaders, I would like to go on record in saying this: In the 20-year span of my personal connection with examiners and examinations, it has been a positive fact that the quality of examiner personnel and the quality of examination work have been up-graded; tremendously.

It is my belief that the effort given to the subject by the National Assn. of Insurance Commissioners definitely has borne fruit.

If you care to consider a positive course of action let me suggest that in the instance of a proved case of abuse, the home state commissioner make a direct and prompt appeal to the commissioner of the wrongdoer. In nine cases out of 10, I believe this would produce results. I will state that

as to Indiana, we would take immediate action to correct any abusive practice on the part of an examiner. It must be pointed out that great care should be exercised in judging a complaint which entails a matter in regard to runs or statistical data requested by an examiner. The mere fact that a request places a burden on a company does not imply that the request has no merit or is not necessary.

I think that your interest in the subject of convention examinations is sincere. Therefore, I ask that you give credit where credit is due and that you bend your efforts toward a constructive program of further improving a workable system of examination.

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Hartford Fire Sponsors Mikoyan TV Interview

Hartford Fire inaugurated local sponsorship of the NBC television show "Meet The Press" Jan. 18 with the appearance of Deputy Premier Anastas Mikoyan of U.S.S.R. Because of special interest the program was extended one-half hour. Members of the panel for the unrehearsed Mikoyan interview were Lawrence Spivak, producer of the show and permanent panelist; Cecil Brown, NBC News; Marquis Childs, St. Louis Post-Dispatch and Harry Schwartz, New York Times. In succeeding weeks the program will feature different guests and panelists. Hartford Fire sponsored telecasts are seen on Channel 30, which serves central Connecticut and western Massachusetts.

Thomas J. Ocacek, manager fire prevention department Western Actuarial Bureau, recently addressed Mountain States Capital Stock Insurance Assn. at Denver. He also spoke before the association's fire prevention committee.

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NAIA Completes Flat Cancellation Study

(CONTINUED FROM PAGE 1)

mittee that made the study; Lawrence F. Smith, educational director of NAIA, J. J. Smick, consulting actuary of the association, and George S. Hanson, secretary and general counsel.

The survey embodied recommendations of an all industry committee.

The 1,000 samples are representative of all states since the number taken from each state was in ratio to the percentage of membership that state represents of the NAIA total.

Of the 6,200 agencies more than 1,100 showed no flat cancellations at all in the month covered.

Few Write Casualty Policies

Of the 1,000 answers to questionnaires which were closely studied, two-thirds of the participating agents write their own fire policies, except in the far west, where the majority, 108 out of 146, have their policies written by the companies. But less than 20% of agents write their own casualty policies, and this is an approximately uniform percentage throughout the country.

Most fire and casualty renewals are issued 30 days prior to expiration, the study shows. But more than 60 out of 1,000, what NAIA calls a significant percentage, according to the report, wait until a day or two before expiration before the renewal is issued.

General fire rate increases appear to have little effect on flat cancellations, but casualty increases have a serious effect on them. Decreases have little effect in the case of either line.

A relatively small percent of fire or casualty coverage is cancelled flat and rewritten by the agency in another contract.

The study showed that 94% of all premiums are collected from policyholders in the first 60 days from the inception of the coverage.

Population Distribution

More than 50% participating agencies serve an area of less than 50,000 population, and only 6% serve areas of more than 1 million population.

That the sample is representative is indicated by the fact that more than 50% of agents participating in the study wrote less than \$100,000 in premiums in 1957. Less than 15% wrote more than \$250,000 in annual premiums.

The 1,000 agents whose replies were closely studied processed 146,474 policies and 52,980 endorsements during August, 1958, representing a total exposure to possible flat cancellations of

195,454. Only 7,767 or 3.9% resulted in flat cancellation in August. Of these 457 were merely spoiled, involved no company entry; 2,171 were rewritten under another contract, for example homeowners; so that the net cancellation was 5,139 or 2.6%.

More than 50% of the flat cancellations occurred in the first 30 days from issue of the policy; 62.2% in the first 10 days from the effective date of the policy.

About one-third of the cancellations involved lines on which there had

Rules Two Excess Policies Must Share Auto Claim

(CONTINUED FROM PAGE 17)

Cosmopolitan's case changed from one of declaratory relief to one for reimbursement. Cosmopolitan was given leave to file a supplemental claim seeking the above relief. The reasonableness of the settlement and expenses were not disputed.

The chancery division held Continental liable and entered judgment for Cosmopolitan for \$11,800. The court concluded that Essex County News Co. obtained Continental's insurance coverage when it hired the truck from U-Drive It, and that such coverage was primary because it was required by state law. Cosmopolitan's policy was held to be excess.

Continental appealed to the Supreme Court. This court said that there was no dispute that both policies extended coverage to the news company and to McCollum and that but for the existence of the policy of one of the companies, the other would provide coverage. The court held that if both clauses were taken literally an unintended absurdity would result. It said it was obvious that there can be no excess insurance in the absence of primary insurance. Since neither policy was a policy of primary insurance, neither could operate as an excess policy. The excess provisions became inoperative. Therefore the general coverage of each policy applied and each company obligated to share the cost of settlement and expenses. The judgment was accordingly modified to require Continental to pay only one-half of the judgment. One justice dissented and held that Continental should pay the full amount.

Raymond L. Cunneen appeared for Continental Casualty, and Philip M. Lustbader of Schneider, Lustbader & Morgan for Cosmopolitan Mutual, Essex County News Co. and McCollum.

been recent rate increases; two-thirds involved policies and/or money endorsements issued by the agency, and one-third involved by the company.

Nationally, 666 agents of the 1,000 sample indicated they wrote their fire policies; 326 do not. In the east this division was 199 to 53, far west 38 to 108, midwest 224 to 108, Rocky Mountain 15 to 6, south 117 to 40, and Texas 73 to 11. The geography here is that of NAIA territorial conferences.

Minority Write Casualty Policies

On casualty, 165 agents write their own policies, 814 do not. This 20-80 ratio was fairly uniform countrywide.

The question about mailing renewals or personally delivering them was broken down into the percentage of renewals mailed or delivered. In the east the number of agents that mail

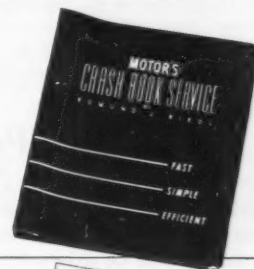
up to 20% of renewals is 19, up to 40% 10, up to 60% 27, up to 80% 51, and up to 100% 146—total, 253. In the far west these figures are four, nine, 18, 33, and 82 for a total of 146. In the midwest the figures are 25, 22, 40, 88 and 159 for 334. In the Rocky Mountain territory the figures are one, one, one, six, and 12 for a total of 21. In the south the record is five, five, 20, 42 and 85 for a total of 157. In Texas the figures are four, six, 13, 19 and 43, for a total of 85. The total number of agents is 996 due to a four point error in computing.

Dominic J. Dighera has been elected president of Negaunee, Mich., Assn. of Insurance Agents. Edgar C. Akel, who also heads the Marquette county association was named secretary-treasurer.

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Editorial Comment

It Is Good To Get Some Facts

In these turbulent times in the fire and casualty business when there is a vast amount of opinion written and otherwise expressed, it is refreshing to come upon a few facts. In this regard, National Assn. of Insurance Agents is to be commended for its study of flat cancellations, which has been completed and which is being circulated among agency and company representatives.

Here is a body of fact about a problem area in the business that affects insurers and agencies country over. Flat cancellations have been discussed for years. But this is the first time anyone has gone out to learn what the actual situation is on anything like a national basis.

Facts constitute the primary discipline of opinion, and they are the only sound base on which to make decisions that involve change. The facts as revealed in the NAIA survey differ considerably from what they had been opined to be on the basis of limited evidence. There are, for example, few-

er cancellations than had been supposed. Test checks have indicated that cancellations run 10 to 15%; the NAIA survey shows them to be, net, less than 3%. Both figures may be correct. For agents who belong to associations formed for the purpose of improving the art of agency tend to be better and more efficient than those who do not take that much interest in their own vocation. Also, those who answered the NAIA questionnaire on flat cancellations, 6,200 out of 33,000, probably tended to be agents with the fewest flat cancellations. In addition, the test period was August, a hot month in which the work load is reduced by vacations.

But whatever its limitations—and all surveys have them—the study is a good one. It reveals a great deal of data which the business, companies and agents can use for guidance in reducing a cost that those distributing insurance by the multiple company agency system can no longer afford if they are to meet their competition.—K.O.F.

Vs Tax Rise To Pay Examination Cost

The Dec. 5 editorial which called attention to some abuses of the convention examination suggested that examination costs be assessed in some other way than against the insurer being examined. The insurance company president who made the suggestion believed that this would reduce the abuses of the convention examination that are prevalent.

In order to be practical, he suggested also that the costs of examinations be met perhaps by an increase in the premium tax of one-fourth of 1%, to be reflected in the rate. He made this suggestion because it is well known that insurance departments have a quite difficult time getting enough money from the present tax to enable them to do a decent job of regulation. Though departments get only a small fraction of the premium tax collections to defray their expenses, other state facilities that share in premium taxes would fight to retain the share they presently get.

Since the editorial appeared several persons have reacted unfavorably to the proposal to increase the premium tax for this purpose. In a letter in this issue Graham Russell of Royal-Globe puts the reasons for examination costs being paid from money already being collected from the public, rather than from an increase in the premium tax.

But the important objective, in the opinion of the insurer president, is to stop charging the costs against the insurer being examined. He noted the special difficulty this imposed on companies in shaky condition. But beyond that, of course, he and other insurer executives would like to see the abuses eliminated from the convention examination system.

A similar objective was strongly urged by Commissioner Humphreys of Massachusetts in his report at New Orleans as chairman of the commis-

sioners' convention examination committee. Mr. Humphreys spelled out in detail the serious abuses his investigation in Massachusetts alone has revealed. Thus all hands seem agreed that the convention examination needs correcting of its evils. Whatever the method of achieving a solution to the problems in this area—and we agree with our correspondents that an increase in tax is undesirable—the important thing is the solution.—K.O.F.

National Board Arson Men Cited In Coronet Article

An article in the February issue of Coronet, "They Smoke Out Arsonists," by Loy Warwick, pays tribute to National Board and its arson squads. The article explains the ways in which the squads determine the origin and nature of fires, even when very small amounts of evidence are available. With their atomic age laboratory equipment and techniques, the article concludes, arson detectives make incendiarism a most unprofitable crime.

Plan N. Y. Risk Course

The New York chapter of American Society of Insurance Management will conduct a course in risk management in cooperation with the school of Insurance Society of New York. Classes will be held on Wednesdays 5:30 to 7:30 p.m. for 15 weeks, beginning Feb. 11.

Included in the course are such subjects as the theory and principles of risk analysis to physical plant and to operations; loss prevention and protection; appraisals and valuations; self insurance; relations with insurance organizations; characteristics of insurers; employee benefits coverage; radioactive isotopes in industry, and the structure, nature and problems of company insurance departments.

Deaths

MRS. ROGER A. RISLEY, wife of a Raleigh, N. C., local agent, was killed and her husband seriously injured in an automobile accident near Bailey, N. C.

MILTON E. CLARK, 33, Greenville, N. C., agent, was killed in an automobile accident near there.

ALBERT A. ROYCE, 56, a special agent of National Board in Brooklyn, N. Y., for 30 years, died in Beekman-Downtown Hospital, New York, after a long illness.

JOHN M. COULTON, New York City broker, died at his home in Bronxville, N. Y.

RALPH H. BALDWIN, 76, former vice-president and treasurer of General of Seattle, died of a heart attack. He joined the company as investment manager and retired in 1949.

A. M. ANDERSON, 66, partner and manager of the Anderson & Newell managing general agency of Little Rock, died there after a long illness. In the insurance business for over 40 years, he was vice-chairman of the executive committee of Arkansas Inspection & Rating Bureau and a member of the Arkansas advisory committee of Assn. of Casualty & Surety Companies.

JOSEPH HADLEY, 96, founder of Joseph Hadley (Insurance) Ltd. agency of London, died at Beaconsfield, England. He began his long marine career with Lloyds in 1876 as an office boy. Moving to the U.S. in 1888, he became assistant underwriter and assistant manager of the marine department of London Assurance in New York. In 1896, he was the first manager of the marine department at New York of Fireman's Fund, and he was also a founder and vice-president of New York Board of Marine Underwriters. Returning to London in 1904, Mr. Hadley formed his own organization which, upon his retirement in 1954, became known as Joseph Hadley (Insurance) Ltd. He has been honorary president of the company since 1954, and a grandson, Ronald D. Hadley is currently chairman. Mr. Hadley was elected an annual subscriber to Lloyds in 1904, and a non-underwriting member in 1945.

N. J. Bill Would Tighten Law On Credit Coverage

The New Jersey legislature has passed and sent to the governor for signature a bill giving the insurance commissioner additional authority in regulating the sale of life and A&S coverage in connection with loans. The measure is based on a model bill of National Assn. of Insurance Commissioners which is being presented in the legislatures of several states. Insured loans of less than five years are covered by the measure.

Sponsors of the bill in New Jersey declared that present statutes regulating life and A&S are adequate to protect the public where competition exists. However, where the company offering the highest commission and expense allowance gets the business regardless of the cost to the actual borrower, it is necessary for the regulating authority to have more control.

South Carolina workmen's compensation rate increases, averaging 8.6%, have been approved by the insurance department.

The NATIONAL UNDERWRITER



The National
Weekly Newspaper of
Fire and Casualty Insurance

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ST. LOUIS 2, MO.—221 Pierce Bldg., Tel. Chestnut 1-1634. Geo. E. Wohlgenuth, Resident Manager.

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Settle Tennessee Auto Rate Issue

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for trend. He left in the reduction in production cost allowance from 25 to 20%, which agents had protested. In this respect he said that he does "not have the power to regulate the percentages or amount of money paid by any company to its agents for obtaining business. That is a matter of private contract between each company and its agents."

Commercial Car Rates

The bureau had asked for a 22.4% increase on commercial cars and 25% on division 1 garages, BI and PDL. The Gilbert approval was for approximately these figures.

William Leslie Jr., general manager of the bureau, promptly indicated that the bureau would accept the Gilbert rates. These, he said "will not be adequate, but in view of the confused situation that has surrounded this rate filing in Tennessee, we have decided to go along with the commissioner's order. We will reappraise the rate situation at a later date, taking into account more recent loss experience than was available at the time of the filing last November."

On Dec. 4 Mr. Northington approved the rates asked by the auto insurers. But on Dec. 12 he suspended the approval and called a public hearing. However, he resigned just before the hearing date, and the hearing was adjourned to Jan. 5.

John Long, who is serving his sixth 2-year term as mayor of Springfield, also has served in the legislature. He is a practicing attorney with several business interests. He received his law degree from Vanderbilt University in 1938 and opened a law office in Springfield.

Both Mr. Long and Gov. Ellington in their announcements stated that the affairs of the department will be based on facts and the economics involved.

Previously, the Tennessee law had

Reject Conn. Auto Liability Rate Rise

Commissioner Premo of Connecticut has turned down National Bureau's filing for an average statewide automobile liability rate increase of 19.3%. He had previously termed the rate proposals as unfairly discriminatory, excessive and not in the public interest and had criticized the bureau's rating methods. William Leslie Jr., general manager of the bureau, had answered these charges and explained rating procedure.

Mr. Premo emphasized that the filing would increase rates 34.7% in Hartford, 29.9% in Fairfield county, 17.5% in New Haven, and 14.7% in Stamford. He asked the bureau to reconsider its proposal and to file a revision. Otherwise, the bureau could appeal to the superior court.

Mr. Premo stressed that the bureau should consider an increase in rates for assigned risk drivers. He said that they do not now pay costs proportionate to the risk they create and that accident free drivers are consequently penalized.

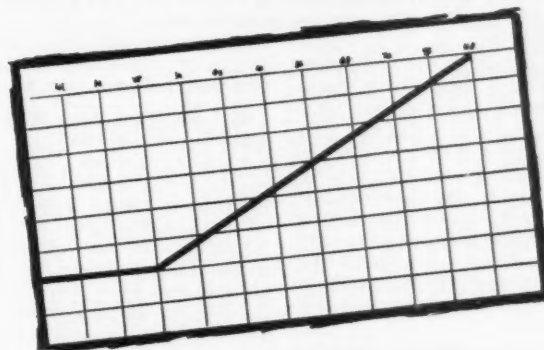
San Marcos (Tex.) Independent Insurance Agents Assn. has elected Archie A. Grusendorf president, Maurice Waldrip vice-president, and Joe Holleran secretary.

The Wilbur J. Juno & Son agency of Portland, Ore., has purchased the Ogden & Gravelle agency there.

a requirement that the commissioner have five years of agency experience, but this provision has been eliminated by the legislature.

Three bills have been introduced in the legislature to establish an unsatisfied judgment fund. The bills would require the registrant of an uninsured motor car to pay \$20 into the fund annually.

At the auto rate hearing, James M. Cahill, secretary of the bureau, and Daniel P. Frame, actuary of NAUA, were the principal industry witnesses.



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Interview California Agents' Attorney

(CONTINUED FROM PAGE 2)

east. We shall also move to inspect and make copies of the companies' records, including inter-office memoranda and financial statements relating to the issues set out in the complaint. In addition to the use of discovery proceedings against the defendant companies, the plaintiffs propose to secure the testimony of those state government officials who permitted themselves to be drawn into private, secret meetings at which reduction in agents' commissions was urged.

Q. What would be the effect if named companies began terminating agency contracts of plaintiffs?

A. Depending upon the factual situation in each case, these terminations

would undoubtedly constitute boycotts within the meaning of the federal anti-trust laws.

Q. Has there ever been a similar action brought to trial?

A. The case of U.S. vs SEUA, which went to the Supreme Court, involved a charge that agents' commissions were fixed by agreement. While no trial was held after the decision of the Supreme Court, the fact of what was done was hardly subject to dispute. In connection with the fixing of real estate commissions, a case was tried and the Supreme Court held that the fixing of real estate commissions was price-fixing within the purview of the anti-trust laws. I do not believe that there can be any

distinction between the fixing of real estate commissions and the fixing of insurance commissions so far as the applicability of the Sherman act is concerned.

Q. Critics of the agents' position hold that the lawsuit will bring irreparable harm to the American agency system. Do you feel that the case will have such an impact on producer-company relations?

A. I do not believe that the lawsuit will bring irreparable or any harm to the American agency system. The history of anti-trust litigation is clear in support of the position that once legal relations have been definitely determined, the members of an industry work more harmoniously than before. On the other hand, the continuance without challenge of back-door private meetings at which the fate of others is decided, will result in irreparable damage to the agency system.

Q. With the industry in the midst of a government investigation of its activities, do you feel that the agents' suit will become a federal issue with the possibility of federal regulation of commissions?

A. There is no reason why the agents' suit should become a federal issue with the possibility of federal regulation of commissions. Again a page of history is instructive. Regulation invariably has followed a request to engage in conduct which would otherwise violate the anti-trust laws. If commissions are fixed upon free and open negotiations between the company and an agent, there will never be regulation of commissions in my opinion. If, on the other hand, commissions are fixed as a result of consultation among the companies, without individual negotiation between the company and the agent, regulation, state or federal, would be inevitable. Competitive negotiation has always been and will always be the best shield against governmental regulation. Cartelism, of whatever variety, invites regulation; competition resists it.

Q. What are the possibilities of an out of court settlement in such an action? What are the agents' conditions for averting actually going to trial?

A. The agents are amenable to an amicable settlement of this action at any time. The condition is the realistic and practical recognition of the fact that agency commissions may not be fixed by a concert of action among the companies which effectively deprives the agent of his right to private negotiation with his own company.

Q. With the plaintiffs asking for a jury trial, what effect do you think daily press publicity of the case will have on the industry?

A. There is no final determination that there shall be a jury trial in this case. But whether a jury trial or not, it is almost certain that there will be no daily press publicity on the case. If history is a reliable guide, the press has been interested in reporting the opening of the trial and its final result.

Q. To date, two prominent industry spokesmen (Attorney Bert Levit and Fireman's Fund President James F. Crafts) have publicly criticized the position of the agents. Would you care to comment on their observations?

A. I have known Mr. Levit for many years. We served together as colleagues on the board of education, and I know his standing in the insurance fraternity. On the merits I believe that Mr. Levit misconceives the application of the federal anti-trust laws. I am

Stocks

By H. W. Cornelius, Bacon, Whipple & Co.
135 S. LaSalle St., Chicago, January 20, 1959

	Bid	Asked
Aetna Casualty	186	190
Aetna Fire	79½	81
Aetna Life	253	259
American Equitable	39	41
American (N. J.)	31	32
American Motorists	17	18½
American Surety	21½	22½
Boston	34½	36
Continental Casualty	114	116
Crum & Forster com.	71½	74
Federal	60½	62
Fireman's Fund	58	60
General Reinsurance	72	75
Glens Falls	36½	37½
Globe & Republic	21	22
Great American Fire	46½	47½
Hartford	203	208
Hanover Fire	44	45½
Home (N. Y.)	51	52
Ins. Co. of No. America	140	143
Jersey Ins. Co.	39½	41
Maryland Casualty	41½	42½
Mass. Bonding	37½	39
National Fire	115	118
National Union	42½	44
New Amsterdam Cas.	49	51
New Hampshire	46½	48
North River	42½	44
Ohio Casualty	24½	Bid
Phoenix Conn.	81½	83
Prov. Wash.	23	24½
Reinsurance Corp. of N.Y.	17½	18½
Reliance	53	54½
St. Paul F. & M.	61	62
Springfield F. & M.	36	37
Standard Accident	61½	63
Travelers	99	100
U.S.F. & G.	82½	84
U. S. Fire	32	33

McQuain With Excelsior In Ohio And Kentucky Field

Excelsior has appointed George D. McQuain field supervisor for central and southern Ohio and Kentucky. He will work out of Cincinnati. This territory was formerly supervised by Bruce R. Howard, who continues as field supervisor for northern Ohio and Michigan, with headquarters at Manitou Beach, Mich.

Mr. McQuain began in insurance with Ohio Inspection Bureau in 1946 at Akron. From 1949 to 1955 he traveled northern and central Ohio for Fireman's Fund. Since then, until recently, he was in charge of southern Ohio for Atlas.

startled by his view that the insurance companies are free to ignore the federal anti-trust laws by agreeing in private meetings on the rates of commissions paid to independent contractors. There can be no valid analogy, as suggested by Mr. Levit, between the anti-trust immunities of labor unions under collective bargaining and the private individual contract negotiations between independent agents and insurance companies. Nor can the right of insurers to act collectively in rate-making be extended to include a right to fix rates of commission payable to independent agents and brokers in a concert of action by insurance companies. Up to this point the insurance companies have steadfastly denied that they acted in concert in fixing the rates of commission. Now, Mr. Levit, by implication asserts that they have the legal right to do so. The agents cannot for their own preservation concede this right to the insurance companies. If the insurance companies have the right, as Mr. Levit claims, to conspire to fix the agents' rates of compensation by designating a lower percentage, they would also have the right to continue reducing it still lower and ultimately to eliminate it entirely. Since Mr. Crafts will be one of the first parties from whom the plaintiffs are taking depositions, I do not care to comment now on his statement.

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State Regulation Wins Another Victory

(CONTINUED FROM PAGE 1)

Health) was all done at or from its home office in Omaha. There its solicitation material originated and was mailed; there the applications for insurance induced by solicitation were received; there all policy contracts were written; and there all premiums were paid. With every activity of the petitioner, in the conduct of its business, subject to the supervision and control of the director of insurance of Nebraska, we think that petitioner's practices in the solicitation of insurance by mail in Nebraska or elsewhere reasonably and realistically cannot be held to be unregulated by state laws."

Amendment Recommended

It had been recommended at the recent meetings in New Orleans of National Assn. of Insurance Commissioners that the extraterritorial amendment be adopted in all states having the model unfair trade practices bill (currently 44 states), but industry suggested this was unnecessary in the first place and in the second place should not be acted upon until the Travelers Health decision was handed down and this point covered. The court has now upheld the industry view that the state had the necessary authority.

It is not known whether FTC will appeal to the Supreme Court.

In the Travelers Health case, the company refused to concede that FTC had any jurisdiction over its operations, contending that the Nebraska director was the proper governmental authority. This position was supported by the federal court, although there was a dissenting opinion by Judge Vogel.

Amicus Curiae Briefs Filed

C. C. Fraizer of Fraizer & Fraizer of Omaha was counsel for Travelers Health. Amicus curiae briefs were filed by the Nebraska attorney general and the attorneys general of Arkansas, Colorado, Connecticut, Florida, Georgia, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, New Mexico, New York, North Dakota, South Carolina, Utah, Vermont, Virginia, Wisconsin, Wyoming. Health Insurance Assn. also filed a brief.

Travelers Health was one of the 41

companies cited in December, 1956, by the FTC as engaging in false and misleading advertising, a citation which was a shock to the insurance business.

FTC claimed jurisdiction to regulate the advertising of Travelers Health, and said it was stepping in in this case because Travelers Health advertising practices were "false, misleading and deceptive."

Public Law 15 Cited

Travelers Health contended that FTC was precluded by public law 15 from regulating its advertising practices since its business was subject to state laws.

The FTC held that in the American Hospital and National Casualty cases the Supreme Court merely decided that the states possess ample means to regulate insurance advertising of companies licensed in the states and represented by agents within the state lines, but in the case of a mail order company no amount of state regulation can effectively stop the influx of deceptive advertising material mailed by a foreign company.

The Supreme Court decided, in National Casualty and American Hospital, the appeals court said, no more than it was required to decide and confined its opinion to the exact factual situation presented. Travelers Health is licensed only in Nebraska and Virginia, but has policyholders in every state and all of its business is transacted through the mail at its home office in Omaha.

"Since its incorporation in 1904," the appeals court noted, "the petitioner has been supervised, regulated and periodically examined by the insurance department of the state of Nebraska. That the laws of that state are adequate to enable the Nebraska insurance department to deal effectively with any unfair advertising practice of the petitioner or of any other insurer domiciled in that state cannot be questioned."

Nebraska Act Noted

The Nebraska unfair competition and trade practices act was amended as described earlier after the FTC took action against Travelers Health. At the time FTC went after Travelers Health, the law did not expressly authorize the Nebraska director to deal with unfair and deceptive trade practices engaged in other states by a Nebraska domiciled company, but the court said: "That, we think is of no substantial consequence. The validity of the order under review depends upon the law presently applicable. A substantial change in applicable law, occurring after the entry of an order or judgment which alters the rules governing a case will ordinarily be given effect on review. . . . Moreover, we think the director of insurance of Nebraska at all times here involved had the power to regulate the practices of the petitioner in the solicitation of insurance in Nebraska and other states. . . . In our opinion there is no controlling distinction between the instant case and the National Casualty and American Hospital & Life insurance cases. We think the advertising practices of the petitioner are regulated by state law within the letter and spirit of the McCarran-Ferguson act, and that the act has placed such practices beyond the regulatory power of the commission. The order under review is vacated on the ground that the Federal Trade Commission is, and was, without authority

to regulate the practices of the petitioner in soliciting insurance."

In his dissent, Judge Vogel did not dispute the contention that a substantial change in law occurring after the entry of an order or judgment which alters the rule governing the case will ordinarily be given effect, but said that "the after-the-fact amendment of the Nebraska code to include deceptive practices 'in any other state' is not the kind of regulation by state law Congress had in mind. To force the citizens of other states to rely upon Nebraska's regulation of the long distance advertising practices of the petitioner in the promotion and sale by mail or otherwise of insurance outside the state of Nebraska seems to me impractical and ineffective. This is much too frail a reed upon which to lean. The petitioner's mail order business is not regulated and cannot be regulated by the laws of the states whose citizens are subjected to the mail-disseminated advertising."

Paramount To Merge Into Pacific National

Directors of Paramount Fire have approved merger of the company into Pacific National Fire. Stockholders will vote on the proposition at a special meeting Feb. 9, and if they approve it the effective date of the merger will be March 31.

The identity of Paramount Fire will be retained after the merger by establishing a Paramount Underwriters department of Pacific National, or a similar approach. The type and class of business now being written by Paramount will be handled by this department.

Paramount and Pacific National are members of the Transamerica group.

Ohio Gives Rules For Deviating On New HO

Companies intending to deviate from the new homeowners coverages approved in Ohio may not carry over their deviations from the current homeowners or CDP programs, the department has announced.

Deviation plans for the current policies may be carried along until the last policy written under either of the old programs has expired, but for the new program a company wishing to deviate will have to file a formal application before April 1 and give immediate written notice to the appropriate rating organizations of the intention to file deviation application. Notice must include, as nearly as possible, specific terms of the proposed application, "must be clear," and must be mailed by Feb. 11. Wording such as "continue our present deviation" will not be acceptable, the department states.

Runs For Judge On More Adequate Award Platform

One candidate for judge of the court of appeals in East Baton Rouge Parish, La., Cecil Bankston, former district judge, advertised in the Baton Rouge Morning Advocate, Jan. 11:

"Judge Bankston feels that awards in personal injury cases should be just and adequate and nearer the national average. The record will show that awards in Louisiana for personal injury are consistently lower than the balance of the country while at the same time insurance rates are substantially above the average. When elected judge of the court of appeals, Judge Bankston will attempt to equalize awards with the national average."

North America Will Switch Coinsurance To Dollar Amount

COLUMBUS—North America will will substitute a dollar figure for the coinsurance percentage for certain classes of risk under a filing approved by the Ohio department. The filing, a deviation from Ohio Inspection Bureau rules, sets up an "amount of insurance" clause in place of a coinsurance clause for offices and bank risks, hospitals and churches, public and private educational institutions and certain municipal buildings. The consideration is a 5% increase in the rate.

The clause reads as follows:

"This company shall not be liable for any greater proportion of any loss than the amount hereby insured bears to \$. . . nor for more than the proportion which this policy bears to the total fire insurance and the property covered hereunder."

Special rules require that the figure shown in the blank be equal to or greater than 80% of the value of the property insured, unless the bureau would require a higher coinsurance percentage and, in that case, the dollar amount is to be based on the higher percentage.

Cooperative Attitude Needed

The filing also specifies that an eligible risk is to be under management which evidences to the company a "cooperative attitude toward loss prevention recommendations" and the company is to inspect the risk at least once a year to "(1) make available specialized technical service for the protection of all hazards insured against and (2) verify values and adequacy of the amount of insurance carried."

Risks with insurance values of less than \$100,000 will not come within this plan since they do not "warrant the furnishing of specialized technical service." The rules also specify that the inspection and technical service be under the supervision of a "member" of the Society of Fire Protection Engineers.

Eligible risks, in detail, are:

Office and bank risks including telephone exchanges and telegraph central stations and radio broadcasting facilities.

Hospitals, sanitariums, orphanages, homes for the aged and asylums (except where inmates are under restraint).

Churches and chapels.

Educational institutions (public and private) including libraries and museums.

Water works, pumping stations, filtration and sewage plants, police and fire department stations and disposal plants and incinerators.

Where the plan is used with an otherwise eligible risk, the auxiliary buildings on the premises are also included, if insured.

St. Louis Surety Men Elect Kuennen President

Surety Underwriters Assn. of St. Louis has named Wilfred A. Kuennen of Fidelity & Deposit as president. Other officers elected are Orville Sackett, U.S.F.&G., vice-president, and George Jamme, Aetna Casualty, secretary-treasurer.

Executive committee members named are Vincent Bayer, Maryland Casualty; Raymond Gabel, Traveler's Indemnity; Paul Tuess, Massachusetts Bonding; William Casey, Fireman's Fund, and D. F. MacCallum, American Surety.

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